NATURAL RESOURCES DEFENSE COUNCIL

April 15, 2013

Chairman Dave Camp (R-MI)
House Ways and Means Committee
U.S. House of Representatives
1102 Longworth House Office Building
Washington D.C. 20515

Ranking Member Sandy Levin (D-MI)
House Ways and Means Committee
U.S. House of Representatives
1106 Longworth House Office Building
Washington D.C. 20515

Congressman Kevin Brady (R-TX)
U.S. House of Representatives
301 Cannon House Office Building
Washington, DC 20515

Congressman Mike Thompson (D-CA)
U.S. House of Representatives
231 Cannon House Office Building
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Via Mail and Email (tax.reform@mail.house.gov)

NRDC Comments: Energy Tax Reform Working Group

Dear Chairman Camp, Ranking Member Levin, Congressman Brady, and Congressman Thompson;

As the committee continues its work on energy tax policy, we write to emphasize the critical importance of continuing to utilize the tax code to promote clean energy and efficiency technologies that reduce pollution and drive innovation. Properly-crafted tax policy has already proven effective at delivering clean, renewable energy and energy efficiency to the nation's consumers while cutting harmful pollution. This creates jobs, provides benefits to local communities, saves businesses and consumers money, and helps ensure America remains a global leader in clean technologies in the 21st century.

It is also long past time to jettison tax provisions, some of them a century old, which promote mature, polluting energy sources that undermine our national goals. It simply does not make sense to continue funneling billions in taxpayer dollars to enormously powerful, wealthy corporations to produce dirty energy that degrades the environment and threatens the health of our children and communities.

Energy Efficiency

The cheapest and cleanest energy resource is the energy we don't have to use. Despite the many benefits of energy efficiency, energy efficiency opportunities are not always implemented due to a variety of market failures, such as split incentives, lack of capital, and other barriers. Tax incentives for energy efficiency help overcome these market barriers by attracting producer and consumer attention to the opportunities and helping transform markets for new technologies and practices. In addition to reducing pollution and saving money for consumers and businesses, energy efficiency incentives have the added benefits of creating jobs. As utility bill savings are spent in other parts of the economy it stimulates growth. These incentives can also increase tax revenue.

Energy efficiency tax incentives for buildings, industry and manufacturing deliver results and they should be strengthened to deliver even greater economic and environmental benefits.

Efficiency tax policy should be designed around the following principles – policy should:

- Deliver innovation in buildings and manufacturing, with tough qualification (only the most efficient); this cuts the cost to the Treasury dramatically as well as increasing savings
- reward taxpayers based on performance and not cost;
- be technology neutral; and
- be regularly updated to continue to drive innovation.

Specifically, the following energy efficiency tax incentives should be extended and strengthened:

Energy Efficient Commercial and Multi-family Buildings – Section 179D

What: The Energy Efficient Commercial Buildings Tax Deduction under the Commercial Building Modernization Act. Currently set to expire at the end of 2013, the 179D tax deduction provision should be extended with the following modifications.

Change the current deduction to further encourage retrofits of existing commercial and multi-family buildings by:

- Measuring energy savings compared to the building's current consumption baseline as opposed to the energy code for new construction;
- Offering incentives on a sliding scale that increases with energy savings;
- Allowing more buildings to be eligible for the deduction(by expanding the deduction to Real Estate Investment Trusts and other commercial building stakeholders);
- Updating the ASHRAE code baseline for new construction and increasing the minimum energy reduction requirements for both new and

existing buildings as the market transforms; and,
- Rewarding both the implementation of efficiency measures *and* the resulting energy savings.

Energy Efficient Home Renovation – Section 25C

What: A residential energy efficient property credit that provides homeowners with a tax credit for various types of residential energy efficiency improvements, including insulation, windows, doors, water heaters, and HVAC equipment.

In order to leverage taxpayer dollars more strategically and effectively, Section 25C should be modified and extended based on the following:

- Pay for performance (i.e. actual energy savings) rather than a percentage of the cost of the energy efficiency measure.
- Provide a pathway that is entirely performance-based and rewards whole-home energy savings (such as the incentives proposed in S. 1914 from last Congress). Specifically, the performance pathway should reward based on percent energy savings compared to the baseline of the existing home's energy use, and the amount of the incentive should increase with greater energy savings.
- Include limited incentives for the highest efficiency heating, cooling and water heating equipment and windows, targeting equipment that has approximately a 1% to 5% percent market share or less. Congress should increase the criteria for windows to those specified in the Energy Star Most Efficient program. Congress should also direct the Department of Energy to report annually on the market share for all prescriptive incentives in Section 25C, so that once a product reaches beyond 10 percent of the market, the efficiency criteria would be revised to continue driving higher levels of efficiency and avoid paying for purchases that would have happened anyway.

Energy Efficient New Homes – Section 45L

What: The New Energy Efficient Home Credit, which provides taxpayers a credit of up to $2,000 for the construction of new energy efficient homes.

The credit for homes for 2014 should be based on a higher efficiency tier and should last four years. The criteria should be tightened over time as the market shifts towards higher levels of efficiency.

Energy Efficiency Appliance Credit – Section 45M

What: The Energy Efficiency Appliance Credit, which provides manufacturers a credit for appliances meeting specified energy efficiency performance criteria.

The credit should be extended for two years with increases in the efficiency level required for products which have gained significant market share.

Renewable Energy

*The Production Tax Credit (PTC) and the Investment Tax Credit (ITC)***.**

NRDC supports the long-term extension of existing tax incentives for renewable energy. Over the last three years alone the nation has seen a doubling of wind power and also a quintupling of solar power in the last four years. The U.S. wind industry employs 75,000 Americans, while the solar industry creates jobs for over 110,000 workers. More renewable energy from these sources means burning less coal, reducing air pollution that contributes to asthma attacks, heart attacks, mercury exposure and drives dangerous climate change. None of this would be possible without the support of the Production Tax Credit, which has been integral to the explosive growth and cost reductions for wind energy. Yet the lack of certainty around the PTC has suppressed investment and triggered job losses, all of which could be avoided by putting in place long-term, predictable support.

Offshore wind energy represents our largest untapped clean energy resource. Wind turbines off our coasts can harness fast wind speeds to power our homes and businesses with pollution-free energy and create new manufacturing jobs. However, there are still no operating offshore wind facilities in U.S. waters. A long-term extension, including a separate line-item in the tax code, of the ITC for offshore wind is critical to the success of the industry. We encourage the committee to examine and ***support the Incentivizing Offshore Wind Power Act*** (H.R.924).

Master Limited Partnerships:

NRDC also endorses allowing the renewable energy and energy efficiency industries to benefit from the same tax treatment that has long been available to the oil and gas industry through ***master limited partnerships*** (MLP). Clean energy markets, like other economic sectors, have been hampered by capital constraints in the aftermath of the U.S. financial crisis. All energy industries require private capital to fund projects, and the recent financial market volatility illustrated the value of capital supply afforded by the MLP structure. Furthermore, clean energy projects are attractive assets for MLP investors, featuring stable revenue sources and a good long-term risk profile for investors. Supplementing successful energy tax credits with access to MLPs for renewables and other clean energy technologies would enhance the sources of capital for the industry and increase investors' opportunities to take ownership in America's clean energy future.

Biofuel Tax Credits

NRDC recommends amending biofuel tax incentives so that they are performance based. We believe that biofuels can play an important role reducing transportation emissions and improving the nation's trade balance. Policy supports should continue to provide a favorable investment climate for sustainably grown non-food based biofuels. But biofuels also bring inherent risks since their feedstocks are inextricably linked to land, water and wildlife. Incorporating features that calibrate value to environmental performance, including carbon pollution reductions, will encourage feedstock and biofuel production practices that can be sustained over the long term.

Ending 100 Years of Fossil Fuel Subsidies

NRDC supports putting an end to a hundred years of handouts to fossil fuels. In 2012, the largest oil and gas companies pulled in $118 billion in profit.[i] That's $323 million every day flowing to some of the world's most profitable and sophisticated companies. The National Academy of Sciences estimates that the total public health cost of fossil fuel use in the United States-is $120 billion annually. Pollution from fossil fuels makes our children sick and drives extreme weather that costs the nation billions in destroyed homes, lost crops, crippled infrastructure, and devastated communities.

The President has identified approximately $4 billion annually in tax loopholes specifically for oil and gas companies. These should be closed. It is possible that the President's budget achieves even greater taxpayer savings because it also modifies rules for dual capacity taxpayers and eliminates Last In First Out Accounting. Oil companies often use these provisions to minimize their tax liability. Prior NRDC analysis has shown that eliminating a similar range of oil and gas subsidies could produce taxpayer savings in the neighborhood of $80 billion over 10 years.

Congress should go even further and take a hard look at oil and gas royalties, our mining laws, and coal leasing programs which have historically padded the pockets of polluters at the expense of taxpayers, as highlighted in a GAO report[ii]. For a more detailed look at fossil fuel subsidies, please see the attached factsheet.

Once again, we believe that the goal of our energy tax policy is a simple one: promote clean energy that advances our national interest by reducing dependence on the dirty energy sources of the past. To do that, we must double down on the nation's investment in clean energy, while ending antiquated policies that promote the very pollution we must end to ensure the health of our children's future.

Thank you for your consideration. For more information on any of these subjects please contact Derek Murrow, Director, Federal Energy Policy (dmurrow@nrdc.org) or myself.

Sincerely,
Franz A. Matzner
Associate Director of Government Affairs
Natural Resources Defense Council

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[i] Daniel Weiss and Jackie Weidman, "Speed Trap: Big Oil Profits from High Gasoline Prices", Center for American Progress", February 2013.
[ii]Government Accountability Office, Mineral Resources: Mineral Volume, Value, and Revenue, 2012. http://grijalva.house.gov/uploads/GAO%20Report%20on%20Mineral%20Extraction%20on%20Federal%20Lands.pdf